

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 8/8/2014

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JOSHUA WILES,

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendants.  
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13-CV-2898 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

For the reasons discussed on the record at the August 8, 2014 conference, Defendants' objections to Magistrate Judge Pitman's June 19, 2014 Order, (Doc. 64, the "Order"), are OVERRULED in part and SUSTAINED in part, and Plaintiff's objection to the Order is OVERRULED.

Accordingly, it is hereby ORDERED that:

1. The deposition of Officer McNamara must take place no later than August 15, 2014.
2. Plaintiff requested, and Defendants indicated that they will produce prior to the deposition, Officer McNamara's disciplinary file. To the extent that Officer McNamara's entire disciplinary file is not produced prior to his deposition, his deposition will remain open solely with regard to the unproduced portions of the file, subject to any objection Defendants may make to the relevance of the unproduced portions of the file.
3. Plaintiff is directed to produce no later than September 5, 2014 any post-arrest statements that he may have made to parties other than counsel concerning either his November

5, 2011 arrest or his September 17, 2012 arrest, up to the present day, wherever such statements may be found. This includes, but is not limited to, the following: emails; letters and other writings; online chats or instant messages; text messages; blog posts; and online comments.

4. Plaintiff is further directed to file on ECF no later than September 5, 2014 an affidavit describing his efforts to locate any statements described in No. 3 above, and confirming that he has not deleted or destroyed any such statements—including Facebook posts, notwithstanding the fact that he produced certain Facebook posts to Defendants—since the date this lawsuit was filed.


5. Defendants are granted leave to depose Plaintiff concerning any statements produced in response to Magistrate Judge Pitman's June 19 Order or in response to this Order, or concerning the affidavit Plaintiff must file.

6. Defendants' Motion for Summary Judgment, (Doc. 51), is DENIED without prejudice to renewal, as premature since discovery is still ongoing. *See* Fed. R. Civ. P. 56(d)(1); *Miller v. Wolpoff & Abramson, L.L.P.*, 321 F.3d 292, 301, 307 (2d Cir. 2003).

The Clerk's Office is respectfully directed to close Doc. 51.

SO ORDERED.

Dated: August 8, 2014  
New York, New York

  
Vernon S. Broderick  
United States District Judge